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Objected to claims 9, 11 and 29 are rewritten in independent form and so are now allowable. Dependent claims 15 and 31 now depend from one of allowable generic linking claims 11 and 29 and so the restriction should be withdrawn at least with respect thereto. Dependent claims 12-18 and 30-34 are allowable at least because they depend from one of allowable claims 11 and 29.

Accordingly, allowance of claims 9, 11-18 and 29-34 is solicited.

Claims 44, 62 and 69 are is amended to correct typographical and/or grammatical errors unrelated to patentability, and Applicants reserve the right to assert the doctrine of equivalents with respect thereto.

A copy of the specification paragraphs as amended and/or of the claims as amended marked to show the amendments thereto are submitted in the Appendix at the end hereof.

Telephone Interview:

Examiner Sharma is thanked for extending the courtesy of a Telephone Interview on March 3, 2003, and for preparing an Interview Summary for the record.

The rejection under 35 U.S.C. 102(b) and the Mott '614 patent were discussed, as were the distinguishing features of claims 1 and 22. The Examiner indicated that she would be conferring with her Primary Examiner before deciding to allow claims 1 and 22. Applicant noted that claims 1 and 22 being allowable would result in the claims depending from claims 1 and 22 being free of the restriction and in claims 1-38 being allowable.

Applicants requested reconsideration and presented an argument for examining claims 71-89 which are directed to a belt scraper as are claims 1-38 of Group I, and also requested reconsideration regarding claims 39-70 in view of the related subject matter and the similarity of features claimed therein with those encompassed by claims 1-38 and the search required.

The arguments presented in the Telephone Interview are included in this response. In accordance with the Examiner's request, this paper and the Declaration referred to herein will be filed by facsimile to PTO facsimile number 703-308-0552.

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RECONSIDERATION OF RESTRICTION/ELECTION:

Reconsideration of the restriction election requirement is respectfully requested.

The Examiner has concluded that claims 71-89 are not part of the elected Group I claims, and has maintained the restriction, but has provided no reason therefor and has not responded in any way to the arguments made in Applicants' previous response.

Accordingly, Applicants have no way to know why the restriction requirement was maintained and are thus deprived of the opportunity to respond. This is contrary to MPEP §803 which states "Examiners must provide reasons and/or examples to support conclusions."

In addition, Applicants' previous response provided reasons overcoming the rebuttable presumption accorded the Examiner for making a *prima facie* explanation in an *initial* restriction requirement. MPEP §803. Applicants provided detailed tables comparing the claims of the various alleged Groups showing that the Examiner's explanation was in error. In this case, because "search and examination of the entire application can be made without serious burden, the Examiner must examine it on the merits, even though it contains claims to independent and distinct inventions." MPEP §803 (emphasis added).

"It still remains important ... that no requirements be made which might result in the issuance of two patents to the same invention." MPEP §803.01.

Applicant hereby restates the arguments set forth in the previous Response in their entirety below, requests reconsideration thereof and examination of claims 1-89.

Restriction/Election Requirement:

The Examiner has required restriction/election of species to either Group I comprising claims 1-38 drawn to a belt scraper, Group II comprising claims 39-57 drawn to a blade assembly, or Group III comprising claims 58-70 drawn to a torsional tensioner. The Examiner also has identified 13 allegedly different species under Group I.

Applicant hereby elects to initially prosecute claims 1-38 and 71-89 of Group I, and respectfully traverses the restriction requirement. Applicant further elects to initially prosecute the alleged species of Figure 1, and also traverses the election of species

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requirement. The claims that are readable on alleged Species I of Group I, and possibly on other alleged species, include at least claims 1-3, 6-14, 16-21, 22-23, 26-30, 32-38, 71, 74-75, 76-80 and 81-89. At least claims 1, 22, 71 and 81 are generic.

Argument Regarding Restriction:

The Examiner has required restriction because "the combination as claimed does not require the particulars of the subcombination because the combination can be utilized without the specific limitations of the torsional tensioner subcombination" which goes to the basis for restriction between the torsional tensioner claims of Group III and both the belt scraper claims of Group I and the blade assembly claims of Group II. No reason is given for the restriction between the claims of Groups I and II, other than an alleged classification difference.

The claims of Group I and Group II read on the same embodiments. For example, the claims of Group I readable on Figures 1-3 are set forth herein and claims 39, 42-43, 45-48 and 49-57 of Group II are also readable thereon. Moreover, elements of the torsional tensioner of Group III are recited in certain claims within Group I and so a search directed to Group I should also search for the features recited therein relating to the tensioner.

Accordingly, it is submitted that in searching claims 1-38 of Group I the Examiner is not only likely to search classifications that also disclose the structure recited in claims 39-57 of Group II, and vice versa, but should search such classifications. For a search directed to either the Group I or the Group II claims to be complete, the Examiner should also search the art classifications pertaining to the non-elected Group. Thus, the search required if all of claims 1-70, now claims 1-89, are examined is not necessarily more complex or extensive than that for claims 1-38.

Claims 1-38 directed to the belt scraper comprise elements that are substantially like the elements recited, for example, in the blade assembly claims 39-57 of Group II and in the tensioner claims 58-70 of Group III. As a specific example for the Group II claims:

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| GROUP I — CLAIMS 1-38 BELT SCRAPER | GROUP II — CLAIMS 39-57 BLADE ASSEMBLY |
|--|---|
| <i>Claim 22. A belt scraper comprising:</i> | <i>Claim 39.* A blade assembly comprising:</i> |
| <i>a blade holder;</i> | <i>a blade holder including a rod disposed in said blade cavity and an elongated key-bar extending radially from said rod with said key-bar disposed in said key-bar groove</i> |
| <i>a scraper blade having a blade body, a blade tip on one end of said blade body and a pair of skirts extending from an end of said blade body opposite the blade tip, wherein said pair of skirts are flexible and define a blade cavity for receiving and engaging said blade holder;</i> | <i>a scraper blade having a blade body, a blade tip on one end of said body and a pair of skirts extending from an end of said body opposite the blade tip, wherein said pair of skirts are flexible and define a blade cavity and a key-bar groove therein</i> |
| <i>wherein said scraper blade is mounted on said blade holder with said blade holder disposed in said blade cavity with said skirts releasably engaging said blade holder; and</i> | <i>a blade holder including a rod disposed in said blade cavity and an elongated key-bar extending radially from said rod with said key-bar disposed in said key-bar groove, said pair of skirts releasably engaging the rod of said blade holder.</i> |
| <i>a tensioner adapted for urging said scraper blade toward a belt.</i> | |

[* Certain elements repeated and/or re-ordered for purposes of comparison.]

Similarly, as to the Group III claims, for example:

| GROUP I — CLAIMS 1-38 BELT SCRAPER | GROUP III — CLAIMS 58-70 TORSIONAL TENSIONER |
|--|--|
| <i>Claim 1. A belt scraper comprising:</i> | <i>Claim 58.* A torsional tensioner for tensioning a member comprising:</i> |
| <i>a blade holder;</i> <i>a mount adapted to position said blade holder transverse to a belt;</i> <i>a blade mounted on said blade holder;</i> <i>and</i> | <i>a mounting plate having a hole therethrough adapted for rotatably receiving the member;</i> |
| <i>a tensioner including an outer collar affixed to said mount and an inner collar affixed to said blade holder, [claim 1]</i> | <i>an outer collar spaced away from said mounting plate and having an arcuate edge complementary to the arcuate housing, said outer collar being rotatable with respect to said arcuate housing about an axis substantially intersecting the hole;</i> <i>an inner collar rotatably disposed between said outer collar and said mounting plate, said inner collar having a through hole adapted for receiving the member and being rotatable about an axis substantially intersecting the hole;</i> |

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| | |
|---|--|
| <i>a torsion spring coupled between said inner and outer collars for urging said blade toward the belt.</i> [claim 1] | <i>a torsion spring coupled between said inner and outer collars for urging relative rotational movement of said inner and outer collars toward a relaxed position of said torsion spring.</i> |
| <i>The belt scraper of claim 1 wherein said tensioner further includes a housing member fixed with respect to said mount and extending proximate said inner and outer collars.[claim 11]</i> | <i>an arcuate housing affixed to and extending from said mounting plate and being arcuate about an axis intersecting said mounting plate proximate the hole therein;</i> |
| <i>a clamp for releasably constraining the rotational position of said outer collar with respect to said housing member.</i> [claim 11] | <i>a clamp for fixing the outer collar rotatably with respect to said arcuate housing within a continuous range of angular positions;</i> |
| <i>wherein said housing member has an arcuate shape complementary to an arcuate edge of said outer collar, and wherein said clamp engages the arcuate shape of said outer collar with the arcuate shape of said housing member.[claim 12]</i> | <i>an arcuate housing affixed to and extending from said mounting plate and being arcuate about an axis intersecting said mounting plate proximate the hole therein;</i> |

[* Certain elements repeated and/or re-ordered for purposes of comparison.]

Accordingly, it is submitted that in searching claims 1-38 of Group I the Examiner is likely to search classifications that also disclose the structure recited in claims 58-70 of Group III, and vice versa, and that for a search directed to either the Group I or the Group III claims to be complete, the Examiner should also search the art classifications pertaining to the non-elected Group. Thus, the search required if all of claims 1-70, now claims 1-89, are examined is not necessarily more complex or extensive than that for claims 1-38.

Argument Regarding Election of Species:

With regard to the election of species requirement, the Examiner has taken figures that show details and/or different views of an embodiment and alleges that these are independent species. As to alleged Species I, for example, Figures 1 and 2 illustrate the belt scraper and Figures 3, 4, 5, 6, 7 and 10A-10C, for example, illustrate portions and/or views thereof, some of which are enlarged, so as to illustrate certain details thereof.

Further, the Examiner alleges that Figure 15 is directed to an alternative scraping system that is another species, however, examination of Figure 15 will show that it differs from Figure 1 in illustrating relatively minor variations of the belt scraper. Among the variations are that two slots 22 in mounting plate 20 are changed from an "I" shape to a

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"T" shape, that a slot 272 is added, and that outer collar 230 has a hex 238. It is noted that slot 272 is also illustrated (but isn't separately numbered) in Figure 14 which illustrates details of the belt scraper of Figure 1. Claims 1-3, 6-14, 16-21, 22-23, 26-30, 32-38, 71, 74-75, 76-80 and 81-89 that are readable on alleged Species I are also readable on the embodiment of Figure 15, which is alleged to be a different species VI.

Similarly, the outer collar illustrated in Figures 16A-16B (alleged Species V) is described as suitable for use in the arrangement of Figure 4 (page 5, lines 18-20) which is in alleged species I. Claims 1-3, 6-14, 16-21, 22-23, 26-30, 32-38, 71, 74-75, 76-80 and 81-89 that are readable on alleged Species I are readable on the outer collars of Figures 4 and 15, which are alleged to be different species.

Accordingly, it is submitted that the alleged species identified by the Examiner are artificial despite patentable distinctions thereof, and that all of claims 1-38 and 71-89 of elected Group I should be examined.

Reconsideration and a statement of reasons for the Examiner's conclusion are requested so that Applicants may have the opportunity under the rules to respond to the Examiner's position. Alternatively, examination and allowance of claims 1-89 is solicited.

Rejection Under 35 U.S.C. 102(b):

Claims 1-3, 6-8, 10, 19-23, 26-28 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,992,614 to Mott. The rejection is respectfully traversed.

Mott relates to a tensioning device for a belt scraper in which a stationary [inner] collar 22 is fixed to mount 30 by spacer sleeve 31 (column 2, lines 50-52) and a rotating [outer] collar 28 is fixed to support shaft 18 (column 3, lines 12-15). An adjusting collar 24 is intermediate stationary collar 22 and rotating collar 28, and is pinned by locking pin 58 to stationary collar 22 to "prevent relative rotation between the two collars 22 and 24" (column 3, lines 16-21), so that collar 24 also becomes stationary, and support shaft 18 is tensioned by spring 26 between collars 24 and 28 (column 3, lines 50-55). This is further confirmed in that "the rotatable collar is fixed to the free end of the shaft" (column 1, lines 61-62) and a "stationary collar, located adjacent the adjusting collar, is fixed to the conveyor frame" (column 2, lines 1-2).

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In the rejection, Examiner states that "Mott discloses ... a tensioner (20) including an outer collar fixed to the mount and an inner collar fixed to the blade holder (see Figure 3)...." The Examiner is incorrect as to both collars, as is plain from Figure 3 of Mott as well as from the description of Mott itself as discussed above. Mott's inner collar is stationary (fixed to mount 30) and his outer collar is rotatable (with shaft 18). Because the basis for the rejection is incorrect, the rejection should be withdrawn.

The foregoing is supported by the "Declaration of George T. Mott Under 37 C.F.R. §1.132" submitted herewith, paragraphs 4-5.

On the other hand, Applicants' invention comprises an outer collar affixed to the mount and an inner collar affixed to the blade holder, i.e. the opposite of what is described in the Mott patent. As is plain from the present Application, the inner collar is closer to the belt than is the outer collar, which is the opposite of what Mott describes..

Accordingly, the belt scraper of Applicants' claim 1 is patentable because it recites:

"a tensioner including an outer collar affixed to said mount and an inner collar affixed to said blade holder, and a torsion spring coupled between said inner and outer collars for urging said blade toward the belt,"

which is not described or suggested by Mott.

Applicant's claims 1-3, 6-8, 10 and 19-21 are patentable at least because they depend from patentable claim 1. In addition, claim 2 recites "said blade comprises a blade body having a pair of substantially parallel skirts extending therefrom defining a blade cavity, wherein said blade is mounted on said blade holder with said blade holder disposed in said blade cavity with said skirts releasably engaging said blade holder." Nothing in Mott describes or suggests a blade having flexible skirts that releasably engage the blade holder.

In addition, Mott describes a spacer 32 (column 2, lines 54-which appears in Figure 3 to be cylindrical and not the "at least one bushing for positioning said blade holder, said bushing having a funnel-shaped hole for receiving said blade holder," recited in Applicants' claim 10.

Also in the rejection, the Examiner states that "The blade body (16) comprising a pair of parallel skirts extending therefrom defining a blade cavity where the blade is mounted on

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the blade holder (18) with the holder disposed within the cavity (see figure 1) and the skirts are releasably engaging the blade holder (18)..." without any citation to the specification of Mott. In fact, the Mott patent does not support the Examiner's assertions which are taken solely from Applicants' disclosure.

Mott says nothing about the nature of the blade 16 or about the mounting of blade 18 to support shaft 18 other than the fact that blade 16 is mounted on a rotatable support shaft 18 (column 2, lines 39-41), as one might expect considering that the Mott patent is directed to the tensioning device.

Nothing in Mott describes or suggests Applicants' blade having flexible skirts that releasably engage a blade holder. In fact, the inventor George T. Mott in the present Application is the same George T. Mott named as inventor in the Mott Patent applied by the examiner, and Mr. Mott declares that the blade shown but not described in the Mott Patent has a rigid U-shaped metal channel that is not flexible and that does not releasably engage the blade mount as recited in the present claims.

The foregoing is supported by the "Declaration of George T. Mott Under 37 C.F.R. §1.132" submitted herewith, paragraphs 3 and 6-8.

In addition, the belt scraper of Applicants' claim 22 is patentable because it recites:

"a scraper blade having a blade body, a blade tip on one end of said blade body and a pair of skirts extending from an end of said blade body opposite the blade tip, wherein said pair of skirts are flexible and define a blade cavity for receiving and engaging said blade holder;

"wherein said scraper blade is mounted on said blade holder with said blade holder disposed in said blade cavity with said skirts releasably engaging said blade holder,"

which is not described or suggested by Mott.

Applicant's claims 23, 26-28 and 35-38 are patentable at least because they depend from patentable claim 22. In addition, claim 26 recites complementary engaging features for limiting longitudinal movement of the scraper blade with respect to the blade holder, claim 27 recites complementary engaging features whereby longitudinal movement is indexed, claim 28 recites a clamp for releasably constraining rotational position of the torsional spring with respect to the stationary member, claim 37 recites a projecting feature and a recess engaging for constraining longitudinal movement of the scraper blade, and claim 38 recites

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longitudinally spaced recesses whereby movement of the scraper blade may be indexed in longitudinal position, none of which is described by the Mott patent.

Accordingly, the rejection under 35 U.S.C. 102(b) is overcome and should be withdrawn.

In view of the patentability of generic claims 1 and 22, the provisional restriction regarding claims 4, 5, 15, 16, 24, 25 and 31 should be withdrawn and those claims are patentable at least because they depend from one of patentable claims 1 and 22. In addition, claims 71-89 are directed to a belt scraper, of which claims 71 and 81 are generic, as are claims 1-38 and so are properly within Group I and should be allowed for the reasons set forth herein regarding claims 1-38.

Thus, all of claims 1-38 and 71-89 are patentable and should be allowed.

Formal Drawing:

Applicants submitted formal drawings with the present Application as filed and the acceptance thereof is not reflected in any of the papers received from the Patent and Trademark Office. Acceptance of the formal drawing and confirmation thereof in the next paper is solicited.

Conclusion:

The number of claims remaining being the same as or less than the number previously paid for, and the number of independent claims being increased by three, a fee of \$126.00 is due in consequence of this timely filed response. Please charge this \$126.00 fee and any additional fee that may be due in consequence of this response, and deposit any refund to, Deposit Account 04-1406 of Dann, Dorfman, Herrell & Skillman.

Applicant respectfully requests that the objections and rejections be withdrawn, and that the Application including claims 1-89 be allowed and passed to issuance.

The Examiner is requested to telephone the undersigned attorney if there is any

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question or if prosecution of this Application could be furthered by telephone.

Respectfully submitted,
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By: 

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March 3, 2003

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APPENDIX

SPECIFICATION PARAGRAPHS MARKED TO SHOW AMENDMENT(S) THERETO:

None.

AMENDED CLAIMS MARKED TO SHOW AMENDMENT(S) THERETO:

9. (Amended) [The belt scraper of claim 8,] A belt scraper comprising:
a blade holder;
a blade mounted on said blade holder;
a mount adapted to position said blade holder transverse to a belt,
wherein said mount includes a pair of spaced apart mounting plates each
having a hole therein, and wherein said blade holder includes a rod having ends
disposed in the holes of said mounting plates; and
a tensioner including an outer collar affixed to said mount and an inner collar affixed to said blade holder, and a torsion spring coupled between said inner and outer collars for urging said blade toward the belt;
- said mounting plates having at least one of a bushing in the hole thereof and a through hole in the shape of one of a circular hole, a slot and a "T"-shaped slot.
11. (Amended) [The belt scraper of claim 1] A belt scraper comprising:
a blade holder;
a mount adapted to position said blade holder transverse to a belt;
a blade mounted on said blade holder; and
a tensioner including an outer collar affixed to said mount and an inner collar
affixed to said blade holder, and a torsion spring coupled between said inner and outer
collars for urging said blade toward the belt,
wherein said tensioner further includes a housing member fixed with respect to said mount and extending proximate said inner and outer collars, and a clamp for releasably constraining the rotational position of said outer collar with respect to said housing member.
29. (Amended) [The belt scraper of claim 28] A belt scraper comprising:
a blade holder;
a scraper blade having a blade body, a blade tip on one end of said blade body
and a pair of skirts extending from an end of said blade body opposite the blade tip,
wherein said pair of skirts are flexible and define a blade cavity for receiving and
engaging said blade holder;
wherein said scraper blade is mounted on said blade holder with said blade
holder disposed in said blade cavity with said skirts releasably engaging said blade
holder; and

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a tensioner adapted for urging said scraper blade toward a belt,
wherein said tensioner includes a stationary member extending proximate said
blade holder, a torsional spring coupled between said stationary member and said
blade holder adapted for urging rotation of said scraper blade, and a clamp for
releasably constraining the rotational position of one end of said torsional spring with
respect to said stationary member, and

wherein said stationary member has a first slot and wherein said clamp includes a locking handle engaging said blade holder through the first slot of said stationary member.

44. (Amended) The blade assembly of claim [3928] 39 wherein said blade holder comprises a second rod substantially parallel to and spaced apart from said rod, and a web joining said second rod and said rod.
62. (Amended) The tensioner of claim 61 wherein a first end of said torsion spring is permanently fastened to said inner collar and a second end of said torsion spring is permanently fastened to said outer collar, whereby said torsion spring and said inner and outer collars are removable as a unitary member by moving said clamp through the further slot.
69. (Amended) The tensioner of claim 58 wherein a first end of said torsion spring is permanently fastened to said inner collar and a second end of said torsion spring is permanently fastened to said outer collar, whereby said torsion spring and said inner and outer collars are removable as a unitary member.